

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PHILIP M. MORIZIO and CAFÉ AL DENTE OF
OYSTER BAY, INC.,

Plaintiffs,

MEMORANDUM AND ORDER

-against-

CV 14-1241 (LDW) (SIL)

THE TOWN OF OYSTER BAY, *et al.*,

Defendants.

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WEXLER, District Judge

Plaintiffs Philip M. Morizio and Café Al Dente of Oyster Bay, Inc. bring this action under 42 U.S.C. § 1983 against defendants Town of Oyster Bay (“Town”) and four Town officials in their individual capacities—Frederick P. Ippolito, Joseph Ciambra, Gary Blanchard, and Joseph Cangro (collectively, the “Individual Defendants”). By Memorandum and Order, dated April 24, 2015, the Court granted dismissal of plaintiffs’ Equal Protection and conspiracy claims, and denied dismissal of plaintiffs’ procedural and substantive due process claims and municipal liability claims. Defendants now move for summary judgment on all claims, including dismissal of all claims against the Individual Defendants based on qualified immunity. Plaintiffs oppose the motion.

Upon consideration, the Court finds that genuine disputes of material fact exist precluding the entry of summary judgment for defendants on plaintiffs’ claims and for the Individual Defendants based on qualified immunity. *See* Fed. R. Civ. P. 56(a) (party seeking summary judgment must demonstrate that “there is no genuine dispute as to any

material fact and the movant is entitled to judgment as a matter of law”); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). Accordingly, defendants’ motion for summary judgment is denied.

SO ORDERED.

_____/s/_____
LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York
June 20, 2016